

REMARKS

Claims 1-6, 8, 9, 11, 12, and 27-31 are currently pending in the subject application and are presently under consideration. Claims 1, 2 5, 6, 8, 11, 12, 27, and 29-31 have been amended as shown at pages 2-6 of the Reply. In addition, claim 38 has been added and is based upon independent claim 1 and claim 11.

Applicants' representative thanks Examiners Heffington and Huynh for the courtesies extended during the telephonic interview conducted on February 21, 2008. Examiners were contacted to discuss the claim rejections under 35 U.S.C. §103(a). Applicants' representative provided further clarification regarding the distinction between the amended claims and the cited reference. These amendments have been incorporated into the claims as shown above. Examiners indicated that further search and consideration was required to determine if the claims would be allowed over the cited prior art.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-6, 8, 9, 11, 12, 27-31 Under 35 U.S.C. §103(a)

Claims 1- 6, 8, 9, 11, 12, 27- 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yoakum *et al.* (US 7,139,797 B1). This rejection should be withdrawn for at least the following reason. Yoakum *et al.* does not teach or suggest all the limitations of the subject claims.

A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. See *KSR v. Teleflex*, 550 U.S. ___, 127 S. Ct. 1727 (2007) citing *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1, 36 (warning against a "temptation to read into the prior art the teachings of the invention in issue" and instructing courts to "'guard against slipping into the use of hindsight'" (quoting *Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F. 2d 406, 412 (CA6 1964))).

The subject claims relates to presenting graphical indicia representative of a user's status. In one aspect, costs associated with rendering an incorrect image versus the benefit of rendering an correct image can be employed in dynamically rendering the graphical indicia. For example, the system can infer that user's status and select a graphical indicia representative of the status to render. However, if the image incorrectly represents the user's actual status, other users who rely on this indicator of status may take incorrect action. If the user is in a meeting and the indicia indicates that the user is at lunch, another user may decide to call the user, thereby, interrupting the meeting. In particular, independent claim 1 recites *a state component that receives information relating to a state of at least one entity, wherein an entity is an individual or group of individuals; and a notifications component that dynamically renders at least one graphical indicia representative of the entity's state to at least one user, the notification component employs a utility component that factors cost associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state.*

Contrary to assertions in the Office Action, Yoakum *et al.* does not teach or suggest the aforementioned novel features as recited in the subject claims. The Office Action states that Yoakum *et al.* does not disclose a utility component that factors cost associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state, but asserts that it would been obvious based upon the teaching of the cited reference. Applicants' representative respectfully disagrees with this assertion. The Office Action asserts that it is inherent in the calculation of availability and the list of communications sent to different users to compute a cost/benefit factor. On the contrary, the cited reference fails to discuss any cost/benefit analysis. Yoakum *et al.* discloses a system that monitors user activity and location information to determine the user's current status and the devices that may be available to them at the location. The system then employs user defined rules that produce a prioritized list of communication devices that can be employed to communicate with the user. (*See Yoakum et al. e.g., column 3, lines 40-44, column 11, line 59-column 12, line 53*) As such, the list is based upon user specified rules and not any type of cost-benefit analysis. The cited reference does not disclose any

type of cost versus benefit analysis in determining the priority of the communication methods. Furthermore, as conceded in the Office Action, Yoakum *et al.* is silent regarding cost of rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state. As such, the cited reference does not provide any teaching that would make this novel feature of the subject claim obvious.

Independent claim 27 recites *receiving state information associated with a state of at least one entity, wherein an entity is an individual or group of individuals; dynamically rendering at least one graphical indicia representative of the state based upon cost associated with rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state; and presenting the at least one graphical indicia to a user.* As discussed above, Yoakum *et al.* does not disclose any type of cost benefit analysis and is silent regarding cost of rendering graphical indicia that incorrectly represents the entity's state versus benefit of rendering graphical indicia that correctly represents the entity's state. As such, the cited reference fails to make obvious all elements of the subject claim.

Moreover, claim 2 recites *the notification component renders graphical indicia as a function of the at least one user's device's capability.* Column 7, line 28 to column 4, line 67 is cited as teaching this feature. However, this section all relates to monitoring the entity's devices to determine the entity status. The section does not disclose any information regarding the devices of the user that will receive the status and render the graphical entity status indicia based upon the user's device. As such, Yoakum *et al.* does not teach this feature of the subject claim.

Additionally claim 3 recites *the graphical indicia changes based upon the length of time the entity is in the same state.* Column 1, lines 30-39 is cited as teaching this feature. On the contrary this section disclose that the status indicator will change when the user state changes. The subject claim discloses that the graphical indicia changes as the user remains in the same state. This provides an indication of how long the user has been in the same state. Yoakum *et al.* is silent regarding this feature of the subject claim.

Claim 5 recites *the notification component dynamically renders annotations or comments as a function of the entity's state, wherein the entity inputted annotations or*

comments for each entity state. Column 11, lines 11-25 is cited as teaching this feature. The cited section discloses presenting an icon based upon a priority of communication methods. This section does not disclose that an entity can enter annotations or comments for each state and that the notification component will display them as a function of the entity's state as disclosed in the subject claim.

In addition, claim 8 recites *the entity defines the order in which users will receive the graphical indicia representative of the entity's state*. The subject claim allows the entity to determine the order in which users will receive the graphical status indicia. This allows the entity to let higher priority users to be notified prior to lower priority users. Yoakum *et al.* is silent regarding this feature of the subject claim.

Claim 11 recites *the entity defines a plurality of sets of graphical indicia representing the entity's states, each set comprises at least one graphical indicia that is different for a particular state than the other sets, the entity assigns at least one set for display to a first user and at least one other set for display to a second user*. The subject claim discloses that the entity can define differing sets of graphical indicia, where for the same state a different graphical indicia can be assigned in each set. This allows for the entity to have different set of graphical indicia for different users. For example, a set can be defined for co-workers and a different set can be defined for friends. Yoakum *et al.* does not teach this feature of the subject claim.

Claim 29 recites *providing multiple tiles of the at least one graphical indicia for a particular state, wherein each tile differs in part according to a user that the at least graphical indicia will be presented*. As discussed above with respect to claim 11, Yoakum *et al.* does not disclose having differing graphical indicia for the same entity state, and thus does not teach the novel feature of the subject claim.

Claim 30 recites *the user presented a plurality of graphical indicia representative of states of a plurality of entities, the user ordering display of the graphical indicia according to priority of the entities*. The subject claim discloses that a user who is presented graphical indicia representing stated of multiple entities can defined the order of display of the graphical indicia to represent their view of the priority of the entities. For example, the user may decide to put the graphical indicia of the

higher priority entities before lower priority entities. Yoakum *et al.* is silent regarding this feature of the subject claim.

Claim 31 recites ***automatically ordering display of the graphical indicia based upon the frequency of communication between the user and each of the entities***. As discussed above, Yoakum *et al.* does not teach display ordering of graphical indicia. As such, the cited reference also fails to disclose automatically ordering display of the graphical indicia based upon the frequency of communication between the user and each of the entities.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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